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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Susan Gellos, individually; Taryn Foster,  
 individually,

Plaintiffs

vs.

City of Phoenix, a governmental agency;  
 Christopher John Turiano and Jane Doe  
 Turiano, husband and wife; William Gates  
 and Jane Doe Gates, husband and wife;  
 Richard Lee Brunton and Jane Doe  
 Brunton, husband and wife; John and Jane  
 Does I-X; ABC Corporations I-X; XYZ  
 Partnerships IX,

Defendants.

Case No.: CV-24-01529-PHX-GMS

**PLAINTIFFS' FIRST AMENDED  
 VERIFIED COMPLAINT**

(Assigned to the Honorable G. Murray  
 Snow)

(JURY TRIAL DEMANDED)

Plaintiffs, by and through their attorneys, Mills + Woods Law, PLLC, for their Complaint against the CITY OF PHOENIX, a governmental entity (the “City”); CHRISTOPHER JOHN TURIANO (“Turiano”) and JANE DOE TURIANO, husband and wife; WILLIAM GATES (“Gates”) and JANE DOE GATES, husband and wife (the City, Turiano, and Gates collectively “Phoenix Defendants”); RICHARD LEE BRUNTON (“Brunton”) and JANE DOE BRUNTON, husband and wife; JOHN AND JANE DOES I-X; ABC CORPORATIONS I-X; and XYZ PARTNERSHIPS I-X, (collectively “Defendants”), hereby allege as follows:

**INTRODUCTION**

This case arises out of the unlawful and wrongful use of excessive force by the

Phoenix Police Department through the City of Phoenix, the officers, and individuals listed as defendants. Plaintiff Susan Gellos – a senior citizen – and Plaintiff Taryn Foster – a disabled individual – were wrongly and violently removed from the seats they paid for to the March 9, 2023 Jimmy Buffett Concert at the Footprint Center in downtown Phoenix Arizona. The Defendants’ actions caused a closed fracture of Gellos’ humerus in her right upper arm, tremendous pain and suffering to Gellos, psychological trauma that still exists to this day, and a lifetime of diminished capacity usage of her right arm. Furthermore, as Taryn was forced to watch these recklessly indifferent actions being taken on her mother, Taryn has also suffered psychological trauma and pain and suffering.

### **JURISDICTION AND VENUE**

1. Pursuant to 42 U.S.C. §1983 *et seq.*, Plaintiffs bring this action for violations of the United States Constitution, including without limitation the Fourth and Fourteenth Amendments and Arizona common and statutory laws.

2. The amount in controversy exceeds the minimal jurisdictional limits of this Court.

3. Jurisdiction is proper pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367(a).

4. To the extent applicable, and without conceding that said statute applies, Plaintiffs have served their Notice of Claim upon Defendants in compliance with A.R.S. §12-821, *et seq.* More than sixty (60) days have expired since Plaintiffs served their Notice of Claim and Defendants have not responded in any manner to said Notice of Claim.

5. Pursuant to Article 6, Section 14 of the Arizona Constitution, this court has original subject matter jurisdiction in this Complaint because the claims relate to causes of action, the underlying acts and/or omissions for which, at all times relevant, have caused the events alleged herein to occur with primary effect in Maricopa County, Arizona.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b) and in that the specific acts giving rise to the causes of action alleged herein occurred with primary effect in Maricopa County, Arizona.

### **PARTIES**

7. The CITY OF PHOENIX is a governmental entity that acts by and through its officials, employees, and agents, including without limitation the Phoenix Police

1 Department, and each of the other Defendants in this action except for Defendants  
2 RICHARD LEE BRUNTON and JANE DOE BRUNTON.

3 8. Upon information and belief, CHRISTOPHER JOHN TURIANO and JANE  
4 DOE TURIANO, are husband and wife and at all material times were residents of Maricopa  
5 County, Arizona.

6 9. CHRISTOPHER JOHN TURIANO is a Police Officer, employed by and is  
7 an agent of the City of Phoenix and the Phoenix Police Department, operating in his official  
8 and individual capacity in Maricopa County, Arizona.

9 10. Upon information and belief, WILLIAM GATES and JANE DOE GATES,  
10 are husband and wife and at all material times were residents of Maricopa County, Arizona.

11 11. WILLIAM GATES is a Police Officer, employed by and is an agent of the  
12 City of Phoenix and the Phoenix Police Department, operating in his official and individual  
13 capacity in Maricopa County, Arizona.

14 12. Upon information and belief, RICHARD LEE BRUNTON and JANE DOE  
15 BRUNTON, are husband and wife and at all material times were residents of Maricopa  
16 County, Arizona.

17 13. Defendants JANE DOE TURIANO, JANE DOE GATES, JANE DOE  
18 BRUNTON, and JOHN and JANE DOES I-X are included as Defendants because the  
19 Phoenix Defendants were acting for the benefit of their respective marital communities, if  
20 any, and therefore the respective marital communities, if any, are liable for their actions as  
21 set forth herein.

22 14. The City of Phoenix is vicariously liable under the principle of *respondeat*  
23 *superior* for the actions and inactions of the employees of the Phoenix Police Department  
24 and its employees and any private contractors including those employees or contractors  
25 named as defendants in this action, as to any claims that are asserted by Plaintiff as a result  
26 of violations of the Arizona Constitution and Arizona common law because, at all relevant  
27 times, Defendants were acting within the course and scope of their employment or contract  
28 with the City or entities privately contracted with the City.

15. For purposes of Plaintiffs' claims arising under Federal law, including  
without limitation the United States Constitution and 42 U.S.C. §1983 et seq., and as may

1 be relevant to Plaintiff's state law claims, at all relevant times described herein, Defendants  
2 were acting under color of state law.

3 16. Defendants John and Jane Does I-X, ABC Corporations I-X, and XYZ  
4 Partnerships I-X are, and at all material times were persons, agents, servants, employees,  
5 corporations and /or business entities whose true names and identities are not known to  
6 Plaintiffs at the present time.

7 17. Plaintiffs allege, upon information and belief, that Defendants John and Jane  
8 Does I-X are citizens or residents of the State of Arizona.

9 18. Plaintiffs allege that Defendants ABC Corporations I-X, and XYZ  
10 Partnerships I-X are entities authorized to conduct business and are conducting business  
11 within Arizona.

### 12 **FACTUAL ALLEGATIONS**

13 19. On March 9, 2023, Gellos and Foster were in attendance for the Jimmy  
14 Buffett concert at Footprint Center located at 201 E Jefferson St, Phoenix, AZ 85004.

15 20. While in line, Susan was singing Jimmy Buffett songs.

16 21. One of the other patrons in line made a rude comment to Gellos and Gellos  
asked her to mind her own business.

17 22. When Gellos told this unnamed patron to mind her own business, upon  
18 information and belief, the patron falsely reported that Gellos and Foster were fighting with  
19 them.

20 23. After entering Footprint, Footprint security approached Gellos and Foster  
21 and told them that they had reason to believe they were intoxicated.

22 24. Gellos and Foster said they were fine but would like a wheelchair for Foster  
23 and an escort to their seats.

24 25. This occurred.

25 26. They were seated and the wheelchair was taken away.

26 27. Approximately twenty (20) minutes passed and Gellos left to buy drinks for  
her and Foster.

27 28. Gellos encountered one of the ladies who had previously made rude  
28 comments.

1           29.     Gellos ignored her and went back to her seats.

2           30.     About fifteen (15) minutes passed and an employee of Footprint came to  
3     Gellos and said that she had to leave but Foster could stay.

4           31.     Gellos and Foster were understandably taken aback by this and protested this  
5     command because they were there to enjoy the concert and had floor seats.

6           32.     Gellos and Foster were calm and said they did not want any drama.

7           33.     Security, including Brunton, refused to listen to Gellos and Foster.

8           34.     Footprint security, including Brunton, then grabbed Gellos by all four limbs  
9     and forcefully and indelicately carried her out of the seating areas of the arena.

10          35.     Brunton began violently swinging Gellos and wrenching her arm.

11          36.     It was at this time that Gellos began feeling extreme pain in her arms due to  
12     the reckless and grossly negligent nature of the fashion she was being carried by the  
13     security detail including Brunton.

14          37.     Gellos believed her arm had been broken.

15          38.     The security guards became frantic about their mistakes and took multiple  
16     pictures.

17          39.     Shortly thereafter, the security detail met with Phoenix Police officer Turiano  
18     and Gates.

19          40.     Gellos was very clear with all Defendants that she was in pain because of the  
20     injury to her arm and that movement to her arm was excruciating.

21          41.     Turiano and Gates heard Gellos explain that her arm was injured and it could  
22     be further injured by manipulation of it.

23          42.     Turiano and Gates heard Gellos' cries about her pain in her arm.

24          43.     Before Turiano apprehended Gellos, he knew that she was suffering from an  
25     injury to her arm and that any physical manipulation would cause excessive pain and  
26     suffering beyond that needed to assert control over Gellos' body.

27          44.     Brunton had Gellos' arm locked behind her and pushed her into the elevator.

28          45.     Any force at that point was unnecessary as Gellos was not resisting and was  
29     simply trying to protect her arm.

30          46.     Despite knowing that Gellos was in severe pain and had suffered an injury,

1 Turiano intentionally disregarded this information.

2 47. Turiano then put Gellos into an armlock on her right arm.

3 48. The pain became unbearable and Gellos began screaming.

4 49. She attempted to position her body in a position to relieve the pain in her  
5 arm.

6 50. Instead of backing off and allowing Gellos to position her body in a fashion  
7 to reduce the excruciating pain, the Defendants responded with even more force – so much  
8 so that they contributed to Gellos’ injuries – making them worse.

9 51. Brunton and Turiano made the intentional decision to cause pain to Gellos.

10 52. The role of a Phoenix Police Officer is to protect.

11 53. Instead, Turiano took it upon himself, knowing that Gellos was in pain, to  
12 cause even more pain through force that was clearly unnecessary.

13 54. Brunton and Turiano all participated in the reckless activities leading to  
14 Gellos’ injuries.

15 55. Gates failed to intervene to stop the recklessly indifferent actions of a citizen  
16 and fellow officer.

17 56. Instead, he stood by, watching Turiano twist and manipulate Gellos.

18 57. He stood by listening to Gellos’ screams of pain caused by Turiano.

19 58. At any point, Gates could have told Turiano that what he was doing was  
20 unnecessary, overboard, and was the cause and creation of excessive force.

21 59. Gates had plenty of time to do so as they were taking an elevator ride.

22 60. Gates failed to do so and ratified the decisions made by Turiano to continue  
23 to apply force that was unnecessary and beyond reasonable to contain the situation.

24 61. In their police reports, Gates and Turiano claim that Gellos was a danger to  
25 them and somehow caused them harm – so much so that breaking her arm in half was  
26 justified.

27 62. The level of force used against a small senior citizen woman was grossly  
28 negligent and recklessly indifferent to Gellos’ person.

63. She was dwarfed by the officers.

64. Again, the force applied by the Defendants was such that it snapped her arm

1 in half.

2 65. The pain created by such force necessarily created involuntary movements  
3 by Gellos.

4 66. Gellos never intended to resist anything nor did she.

5 67. Her body merely reacted to the extreme pain created by the Defendants.

6 68. Any contact by Gellos' body with any of the Defendants was unintentional  
7 and due to this agonizing pain.

8 69. Gellos' daughter was forced to watch the torture inflicted on her mother.

9 70. If not for the egregious and grossly negligent actions of the Defendants,  
10 Gellos would remain healthy and would have avoided injury at their hands.

11 71. Foster would not have been subjected to watching her mother be cruelly and  
12 maliciously attacked.

13 72. Foster was so shocked that she could no longer stand nor walk.

14 73. She needed a wheelchair to continue.

15 74. It shocks the conscience that Foster was forced to watch these events.

16 75. It shocks the conscience that Gellos was forced to endure pain and brutal  
17 attacks that eventually snapped her arm in half.

18 76. It should be noted that the events described in the Police Reports obtained  
19 are disputed by Gellos and Foster.

20 **COUNT I**  
**GROSS NEGLIGENCE**  
*(City)*

21 77. Plaintiffs incorporate the allegations in the foregoing paragraphs as though  
22 fully set forth herein.

23 78. Under Arizona Revised Statute § 12-820.02(A) a public employee acting  
24 within the scope of the public employee's employment can be liable for damages and  
25 injuries if the employee was grossly negligent.

26 79. The Phoenix Defendants' actions were willful and wanton with reckless  
27 indifference to Gellos' life and safety.

28 80. The Phoenix Defendants' actions created an unreasonable risk of harm to



1 Gellos and that risk was so great that it was highly probable that harm would have resulted.

2 81. Defendants systematically and repeatedly acted with reckless indifference  
3 towards Gellos' life and safety, including their acts and omissions set forth above, resulting  
4 in the severe and debilitating injuries to Gellos.

5 82. Defendant City of Phoenix is vicariously liable under *respondeat superior*  
6 for the actions of any employee, agent, or servant of the City of Phoenix, including that of  
7 the other named Defendants in this case.

8 83. Defendant Turiano was grossly negligent and acted with reckless  
9 indifference to Gellos' life and safety by using excessive force objectively unreasonable  
10 under the totality of the circumstances.

11 84. The remaining Phoenix Defendant Gates breached the standard of care by  
12 failing to intercede or intervene to prevent their fellow officers from using unwarranted,  
13 reckless force with wanton disregard to the preservation of life.

14 85. The Phoenix Defendants, while acting as agents and employees for the  
15 Phoenix Police Department, owed a duty to Gellos to perform their responsibilities as  
16 officers of the law without reckless indifference to Gellos' life and safety.

17 86. The Phoenix Defendants, while acting as agents and employees for Phoenix  
18 Police Department, owed a duty to Gellos to act objectively reasonably and without  
19 reckless indifference to Gellos' life and safety.

20 87. The Phoenix Defendants' use of excessive force upon Gellos constitutes  
21 reckless indifference to Gellos' life and safety and gross negligence for which the Phoenix  
22 Defendants are individually liable.

23 88. The Phoenix Defendants' conduct, in not using other less restrictive means  
24 that were readily available, constitutes gross negligence for which the Phoenix Defendants  
25 are individually liable.

26 89. In taking the actions as described above, the Phoenix Defendants breached  
27 their duty to refrain from such unreasonable and recklessly indifferent conduct.

28 90. As a direct and proximate result of Defendants' breach, Gellos sustained  
severe and permanent injuries, suffered extreme pain and suffering, lessened her ability to  
have and maintain meaningful familial relationships, and lessened her ability to provide



1 for her daughter, Foster.

2 91. Defendants' acts and omissions set forth above, also demonstrate gross and  
3 wanton negligence in that each of them knew or had reason to know that their acts  
4 individually and collectively created an unreasonable risk of bodily harm to Gellos and a  
5 high probability that substantial harm would result.

6 **COUNT II**  
**NEGLIGENCE**

7 *(Brunton and JOHN and JANE DOES I-X)*

8 92. Plaintiffs incorporate the allegations in the foregoing paragraphs as though  
9 fully set forth herein.

10 93. Brunton and John and Jane Does I-X were security guards employed at the  
11 Footprint Center at the time of the Jimmy Buffett concert on March 9, 2023.

12 94. Brunton and John and Jane Does I-X took it upon themselves to accost Gellos  
13 and Foster and gain control over their physical bodies.

14 95. At that point, a duty was created for Brunton and John and Jane Does I-X to  
15 act reasonably and not cause harm to Gellos or Foster.

16 96. Brunton and John and Jane Does I-X breached that duty.

17 97. Through their actions, Brunton and John and Jane Does I-X actually caused  
18 harm to Gellos and Foster.

19 98. Gellos' and Foster's injuries were a foreseeable result of Brunton's and John  
20 and Jane Does I-X's actions.

21 99. Their actions were the proximate cause of the harm Gellos and Foster  
22 sustained.

23 100. The harm resulted in economic and physical damages to Gellos and Foster.

24 101. Their conduct was willful and wanton sufficient enough to warrant punitive  
25 damages.

26 **COUNT III**  
**NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

27 *(City)*

28 102. Plaintiffs incorporate the allegations in the foregoing paragraphs as though

1 fully set forth herein.

2 103. The Defendants' negligence and intentional, willful, and wanton actions as  
3 alleged herein caused Foster – Gellos' daughter - emotional distress.

4 104. Foster suffered severe emotional distress which has physically manifested in  
5 weight loss, nightmares, and behavioral changes, all of which were nonexistent before the  
6 Jimmy Buffett concert.

7 105. Foster has suffered damages in an amount to be proven at trial as a result.

8 **COUNT V**  
9 **EXCESSIVE FORCE IN VIOLATION OF THE FOURTEENTH AMENDMENT**  
10 **AND 42 U.S.C. § 1983**  
11 **(Turiano)**

12 106. Plaintiffs incorporate the allegations in the foregoing paragraphs as though  
13 fully set forth herein.

14 107. 42 U.S.C. § 1983 provides individuals with a cause of action to sue for  
15 violations of his or her constitutional rights. The 14th Amendment protects individuals  
16 from constitutional violations of State and local authorities. As incorporated by the 14th  
17 Amendment, the 4th Amendment protects individuals from the use of excessive force by  
18 law enforcement officers. The Defendants, while acting in their official capacity and  
19 individual capacities and under the color of law, violated Plaintiffs' rights to freedom from  
20 unreasonable seizures.

21 108. The Phoenix Defendants acted willfully, knowingly, and with specific intent  
22 to deprive Plaintiffs of their rights under the Fourteenth Amendment of the United States  
23 Constitution, including their right to be secure in their person and free from the use of  
24 unreasonable force and seizure.

25 109. The Phoenix Defendants acted unreasonably by using unnecessarily  
26 excessive force as described herein.

27 110. Gellos was not resisting arrest.

28 111. Gellos was unarmed.

112. Gellos did not present a danger to herself or the community.

113. As discussed herein, Gellos, a woman, is a senior citizen and was much

1 smaller than the Phoenix Defendants.

2 114. Despite the clear evidence that Gellos was unarmed, not a danger to self or  
3 community, and not resisting arrest, the Phoenix Defendants used excessive force which  
4 was objectively unreasonable under the totality of the circumstances, and which caused  
5 Gellos' right humerus to snap.

6 115. As discussed herein, Turiano knew that Gellos had suffered an injury and  
7 was in distress.

8 116. Turiano, despite being told by Gellos that manipulation of her arm would  
9 cause her extreme pain, and despite the fact that Gellos posed absolutely no harm to the  
10 officers, intentionally applied force to Gellos' arm causing extreme excruciating pain for  
11 no reason other than to cause that pain.

12 117. Turiano's actions were objectively unreasonable in that they involved using  
13 force unnecessary to contain the situation.

14 118. A police officer may only use force that is reasonable under the  
15 circumstances.

16 119. Twisting and manipulating Gellos' arm behind her back, continuing to apply  
17 the full force of his muscles, and not letting up even though a diminutive, older woman  
18 was screaming at the pain, was unreasonable given the circumstances.

19 120. Gates failed to intercede or intervene to prevent his fellow officers from using  
20 unwarranted, reckless force with wanton disregard to the preservation of life.

21 121. Gellos' injuries were the direct result of the Phoenix Defendants' actions and  
22 inactions.

23 122. Additionally, the acts of the Phoenix Defendants and their employees and  
24 agents, as set forth above, demonstrate gross and wanton negligence in that each of them  
25 knew or had reason to know that their acts individually and collectively created an  
26 unreasonable risk of bodily harm to Gellos and a high probability that substantial harm  
27 would result.

28 123. In causing the painful and barbaric injuries, the Phoenix Defendants and their  
employees and agents acted with an evil mind and a malignant heart warranting an award  
of punitive damages.

**COUNT VI**  
**DUTY AND FAILURE TO INTERVENE**  
*(Gates)*

124. Plaintiffs incorporate the allegations in the foregoing paragraphs as though fully set forth herein.

125. “[P]olice officers have a duty to intercede when their fellow officers violate the constitutional rights of a suspect or other citizen.” *Cunningham*, 229 F.3d at 1289 (quotations omitted) (quoting *United States v. Koon*, 34 F.3d 1416, 1447, n.25 (9th Cir. 1994)). “Importantly, however, officers can be held liable for failing to intercede only if they had an opportunity to intercede.” *Id.* (citation omitted).

126. Law enforcement officers who have a realistic opportunity to prevent a fellow officer from violating a citizen's Constitutional rights have a duty to intervene to protect the victim from the unconstitutional retaliation, use of force or violation of due process of law.

127. As set forth herein, at no time did Gates make any affirmative step to intervene to protect Plaintiffs’ Constitutional rights.

128. The acts and/or omissions of Gates were willful, wanton, reckless, malicious, oppressive and/or done with a conscious or reckless disregard for the rights of Plaintiffs.

129. Plaintiffs, therefore, prays for an award of punitive and exemplary damages against these individual defendants in an amount to be determined according to proof.

130. Plaintiffs suffered damages as a direct and proximate result of the illegal acts of the Gates in failing to intervene.

**JURY TRIAL DEMAND**

131. Plaintiffs hereby demand a jury trial in this matter as to all claims and against all Defendants.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs requests that the Court enter judgment against the Defendants and in favor of the Plaintiffs, as follows:

- a) For compensatory, general and special damages against each and every Defendant, jointly and severally, in an amount to be proven at trial;

- 1 b) For all other non-pecuniary damages as to be proven at trial;  
2 c) For punitive and exemplary damages against Defendants in an amount  
3 appropriate to punish the wrongful conduct alleged herein and to deter such  
4 conduct in the future;  
5 d) For pre-and post-judgment interest to the extent provided by law;  
6 e) For Plaintiffs' incurred costs, including all incurred attorneys' fees and court  
7 costs, pursuant to 42 U.S.C. §1988 and as otherwise authorized by any other  
8 statute or law; and  
9 f) For such other relief as this Court may deem proper.

10  
11 **RESPECTFULLY SUBMITTED** this 26th day of February 2025.

12 **MILLS + WOODS LAW, PLLC**

13  
14 By /s/ Sean A. Woods  
15 Robert T. Mills  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 26, 2025, I electronically transmitted the foregoing document to the Clerk's Office using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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/s/ Ben Dangerfield

**VERIFICATION**

Susan Gellos declares as follows:

I am a Plaintiff in the foregoing First Amended Verified Complaint and know the contents thereof. I declare, under penalty of perjury, that the allegations contained therein are true and correct to the best of my knowledge and belief, except those made upon information and belief, and as to those, I believe them to be true.

**EXECUTED** Feb 26, 2025

  
Susan Kay Gellos (Feb 26, 2025 15:54 MST)

Susan Gellos